

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

REMARKS

Claims 1-130 were pending in this application at the time the present Office Action was mailed. Claims 1, 7, 9-22, 25-27, 30, 31, 34, 35, 41, 64, 76, 85, 86 and 93-130 have been cancelled in this response, without prejudice, and without commenting on or conceding the merits of the outstanding rejections of any of these claims. Claims 2-6, 8, 23, 24, 28, 29, 32, 36-40, 42-52, 83, 87 and 88 have been amended in this response. New claim 131 has been added in this response. Accordingly, claims 2-6, 8, 23, 24, 28, 29, 33, 36-40, 42-63, 65-75, 77-84, 87-92 and 131 are currently pending in this application.

In the Office Action mailed December 31, 2002, claims 1-19, 22-29, 32, 33, 36-52, 64, 76, 83, 84 and 89-93 were rejected. More specifically, the status of the application in light of this Office Action is as follows:

- (A) The Information Disclosure Statement filed on July 31, 2002, was alleged to fail to comply with 37 C.F.R. 1.97, 1.98 and MPEP § 609;
- (B) Claims 1-19, 22-29, 32, 33, 36-52, 64, 76 and 93 were rejected under 35 U.S.C. § 112, second paragraph;
- (C) Claims 1-3, 5-11, 13-18, 22, 24-27, 36-38, 40-44, 48, 50-52, 83, 84 and 89-93 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,381,012 to Russek ("Russek");
- (D) Claims 45 and 46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Russek;
- (E) Claims 53-63, 65-75 and 77-82 were allowed;
- (F) Claims 4, 12, 19, 28, 64 and 76 were indicated to be allowable if rewritten to overcome the Section 112 rejections and to include all of the features of the claims from which they depend; and

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

(G) Claims 87 and 88 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form to include the features of the claim from which they depend.

The Applicants' attorney wishes to thank the Examiner for engaging in a telephone conference on February 7, 2003. During that telephone conference, the Examiner agreed that the Section 112 rejections would be withdrawn in light of the amendments made in the present response. Furthermore, the Examiner tentatively agreed that a proposed amendment to claim 83 patentably distinguishes claim 83 over the cited reference. Claim 83 has been amended accordingly.

A. Response to the Information Disclosure Statement Objection

The Information Disclosure Statement ("IDS") filed July 31, 2002, was alleged to fail to comply with formalities. Enclosed herewith is a supplemental IDS and copies of the cited references. Applicants respectfully request consideration of the references identified in the supplemental IDS.

B. Response to the Section 112 Rejections

Claims 1-19, 22-29, 32, 33, 36-52, 64, 76 and 93 were rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 9-14, 16-19, 22, 25 and 27 have been cancelled and therefore the rejection of these claims is now moot. Claims 4, 23, 28, 29, 32, 33, 39, 47 and 49 have been rewritten in independent form and amended in accordance with the agreement reached with the Examiner during the telephone conference on February 7th. Claims 2, 3, 5, 6, 8 and 24 depend from claim 4 and claims 36-38, 40, 42-46, 48 and 50-52 depend from claim 28. Accordingly, the Section 112 rejection of claims 2-6, 8, 23, 24, 28, 29, 32, 36-40 and 42-52 should be withdrawn.

Claims 7, 15, 26, 41, 64, 76 and 93 have been cancelled and therefore the rejection of these claims is now moot.

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

Claims 50-52 have been amended in accordance with the agreement reached with the Examiner during the telephone conference on February 7th. Accordingly, the Section 112 rejection of these claims should be withdrawn.

C. Response to the Section 102(b) Rejection

Claims 1-3, 5-11, 13-18, 22, 24-27, 36-38, 40-44, 48, 50-52, 83, 84 and 89-93 were rejected under 35 U.S.C. § 102(b) as being anticipated by Russek. Claims 1, 7, 9-11, 13-18, 22, 25-27, 41 and 93 have been cancelled and therefore the rejection of these claims is now moot.

Claims 2, 3, 5, 6, 8 and 24 have been amended to depend from allowable claim 4. Claims 36-38, 40, 42-44, 48 and 50-52 have been amended to depend from allowable claim 28. Accordingly, the Section 102(b) rejection of these claims should be withdrawn.

Claim 83 has been amended in accordance with the tentative agreement reached during the telephone conference on February 7th. Accordingly, the Section 102(b) rejection of claim 83 should be withdrawn.

Claims 84 and 89-92 depend from claim 83. Accordingly, the Section 102(b) rejection of these claims should be withdrawn for the reasons discussed above with reference to claim 83 and for the additional features of these claims.

D. Response to the Section 103(a) Rejection

Claims 45 and 46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Russek. Claims 45 and 46 have been amended to depend from allowable claim 28. Accordingly, the Section 103(a) rejection of these claims should withdrawn.

E. Allowed Claims

Claims 53-63, 65-75 and 77-82 were allowed and have not been amended herein.

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

F. Indication of Allowable Subject Matter

Claims 4, 12, 19, 28, 64 and 76 were indicated to be allowable if rewritten to overcome the Section 112 rejections and to include the features of the claims from which they depend. Claims 4 and 28 have been amended in accordance with the agreement reached during the February 7th telephone conference. These claims have also been rewritten in independent form to include the features of the claims from which they depend. Accordingly, claims 4 and 28 should be allowed.

Section 112 was also the sole basis for the rejection of claims 23, 29, 32, 33, 39, 47 and 49. These claims have been amended in accordance with the agreement reached during the February 7th telephone conference and have been rewritten in independent form to include the features of the claims from which they depend. Accordingly, claims 23, 29, 32, 33, 39, 47 and 49 should be allowed.

G. Indication of Allowable Subject Matter

Claims 87 and 88 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form to include the features of the claim from which they depend. These claims have been amended accordingly, and therefore the objection to these claims should be withdrawn.

H. New Claim 131

New claim 131 depends from allowable claim 4. Accordingly, new claim 131 should be allowed.

I. Conclusion

In light of the foregoing amendments and remarks, all of the pending claims are in condition for allowance. Applicants, therefore, request reconsideration of the

RESPONSE UNDER 37 C.F.R. § 1.116

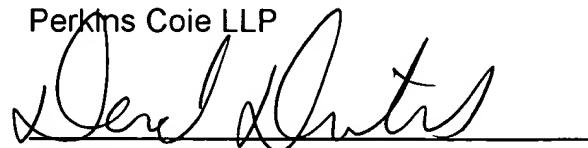
EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

application and an allowance of all pending claims. If the Examiner notices any informalities in the claims, he is encouraged to contact David Dutcher to expediently correct any such informalities.

Respectfully submitted,

Perkins Coie LLP



David T. Dutcher
Registration No. 51,638

Date: 2/28/03

DTD:ri

Correspondence Address:

Customer No. 25096
Perkins Coie LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 583-8888

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

Appl. No. 09/751,382

APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

2. (Twice Amended) The apparatus of claim 14, further comprising:
 - a first engagement member depending from the support member at the first coupler portion and configured to removably engage the first coupler; and
 - a second engagement member depending from the support member at the second coupler portion and configured to removably engage the second coupler.
3. (Amended) The apparatus of claim 14, further comprising the first and second couplers.
4. (Twice Amended) The apparatus of claim 1, further comprising:An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:
 - a first coupler having an electrical contact configured to be connected to a percutaneous electrical probe inserted into the recipient;
 - a support member configured to rest on a body of the recipient, the support member having a first coupler portion configured to be positioned proximate to a first coupling position of the body of the recipient and a second coupler portion configured to be positioned proximate to a second coupling position of the body of the recipient, the first coupler portion being configured to removably carry the first coupler, the second coupler portion being configured to removably carry a second coupler, the support member being spaced apart from the first and second coupling positions when resting on the body of the recipient; and
 - the first coupler, wherein the first coupler has an electrical contact configured to be connected to a percutaneous electrical probe inserted into the patient; and

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

a flexible cable connected between the first coupler and the support member, the cable remaining connected between the first coupler and the support member when the first coupler is moved from the a first carried position with the first coupler carried by the first coupler portion to the a first coupled position with the first coupler operatively coupled to the recipient.

5. (Amended) The apparatus of claim 14, further comprising the first coupler and wherein the first coupler is configured to transmit electrical signals to the recipient when the first coupler is coupled to the recipient at the first coupling-coupled position.

6. (Amended) The apparatus of claim 1-4 wherein the support member is shaped to rest on at least one of a back, a neck, a head and a leg of the recipient.

8. (Twice Amended) The apparatus of claim 1-4 wherein the first coupler portion is positioned closer than the second coupler portion to the first coupling position.

23. (Twice Amended) The apparatus of claim 16An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:

a support member configured to rest on a body of the recipient, the support member having a first coupler portion configured to be positioned proximate to a first coupling position of the body of the recipient and a second coupler portion configured to be positioned proximate to a second coupling position of the body of the recipient, the first coupler portion being configured to removably carry a first coupler, the second coupler portion being configured to removably carry a second coupler, the first coupler portion configured to be positioned closer than the second coupler portion to the first coupling position of the body of the recipient;

wherein the support member includes a cavity at the first coupler portion positioned to receive at least a portion of the first coupler.

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

24. (Twice Amended) The apparatus of claim 16-4 wherein the support member includes a column at the first coupler portion positioned to be received in an aperture of the first coupler.

28. (Twice Amended) ~~The apparatus of claim 27, further comprising: An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:~~

~~a first coupler having an electrical contact configured to be connected to a percutaneous electrical probe inserted into the recipient;~~

~~a support member configured to rest on a body of the recipient proximate to a coupling region, the support member having a first engagement portion configured to be positioned proximate to a first coupling position on the body of the recipient and a second engagement portion configured to be positioned proximate to a second coupling position on the body of the recipient;~~

~~a first engagement member configured to removably carry the first coupler at the first engagement portion of the support member;~~

~~a second engagement member configured to removably carry a second coupler at the second engagement portion of the support member, the first engagement member configured to be positioned closer than the second engagement member to the first coupling position; and~~

~~the first coupler, wherein the first coupler has an electrical contact configured to be connected to a percutaneous electrical probe inserted into the patient; and~~

~~a flexible cable connected between the first coupler and the support member, the cable remaining connected between the first coupler and the support member when the first coupler is moved from the a first attached position with the first coupler carried by the first engagement member to the a first coupled position with the first coupler operatively coupled to the recipient.~~

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

29. (Amended) The apparatus of claim 27 An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:

a support member configured to rest on a body of the recipient proximate to a coupling region, the support member having a first engagement portion configured to be positioned proximate to a first coupling position on the body of the recipient and a second engagement portion configured to be positioned proximate to a second coupling position on the body of the recipient;

a first engagement member configured to removably carry a first coupler at the first engagement portion of the support member; and

a second engagement member configured to removably carry a second coupler at the second engagement portion of the support member, the first engagement member configured to be positioned closer than the second engagement member to the first coupling position;

wherein the support member has a central axis, a first elongated portion positioned along the central axis, a second elongated portion extending transversely to the central axis on first and second sides of the central axis, and a third elongated portion positioned between the first and second elongated portions and extending transversely to the central axis on the first and second sides of the central axis, further wherein the first and second engagement members are positioned on one of the elongated portions, with the first engagement member including a first post positioned on the first side of the central axis and the second engagement member including a second post positioned on the second side of the central axis.

32. (Twice Amended) The apparatus of claim 27, further comprising: An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:

a first coupler;

a support member configured to rest on a body of the recipient proximate to a coupling region, the support member having a first engagement portion configured to

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

be positioned proximate to a first coupling position on the body of the recipient and a second engagement portion configured to be positioned proximate to a second coupling position on the body of the recipient;

a first engagement member configured to removably carry the first coupler at the first engagement portion of the support member;

a second engagement member configured to removably carry a second coupler at the second engagement portion of the support member, the first engagement member configured to be positioned closer than the second engagement member to the first coupling position; and

the first coupler; and

a flexible link connected between the first coupler and the support member, the link remaining connected between the first coupler and the support member when the first coupler is moved from the first attached position to the first coupled position.

36. (Twice Amended) The apparatus of claim 27-28 wherein the first engagement member includes a column projecting away from the support member, the column configured to be received in an aperture of the first coupler.

37. (Amended) The apparatus of claim 27-28 wherein the support member is flexible and resilient to conform to a surface of the body.

38. (Amended) The apparatus of claim 27-28 wherein the support member is shaped to rest on at least one of a back, a neck, a head and a leg of the recipient.

39. (Amended) The apparatus of claim 27-28 An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:

a support member configured to rest on a body of the recipient proximate to a coupling region, the support member having a first engagement portion configured to be positioned proximate to a first coupling position on the body of the recipient and a

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

second engagement portion configured to be positioned proximate to a second coupling position on the body of the recipient;

a first engagement member configured to removably carry a first coupler at the first engagement portion of the support member; and

a second engagement member configured to removably carry a second coupler at the second engagement portion of the support member, the first engagement member configured to be positioned closer than the second engagement member to the first coupling position;

wherein the first engagement member has a cavity positioned to receive at least a portion of the first coupler.

40. (Amended) The apparatus of claim 27-28 wherein an arrangement of the first and second engagement members corresponds at least approximately to an arrangement of the first and second coupling positions.

42. (Twice Amended) The apparatus of claim 27-28 wherein the first and second coupling positions are two of a larger plurality of coupling positions located on first and second sides of a central axis of the support member, and wherein the first and second engagement members are two of a larger plurality of engagement members arranged in two rows on opposite sides of the central axis.

43. (Twice Amended) The apparatus of claim 27-28 wherein the first and second coupling positions each have a longitudinal location along a body longitudinal axis and a lateral location transverse to the body longitudinal axis, and wherein the support member has a central support member axis generally aligned with the body longitudinal axis during operation, further wherein the first engagement member has a longitudinal location and a lateral location relative to the central support member axis that correspond to the longitudinal and lateral locations of the first coupling position relative to the body longitudinal axis, still further wherein the second engagement member has a longitudinal location and a lateral location relative to the central support

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

member axis that correspond to the longitudinal and lateral locations of the second coupling position relative to the body longitudinal axis.

44. (Amended) The apparatus of claim 27-28, further comprising the first and second couplers.

45. (Amended) The apparatus of claim 27-28 wherein at least a portion of the first engagement member has a first color and at least a portion of the second engagement member has a second color different than the first color.

46. (Amended) The apparatus of claim 27-28 wherein the first engagement member has a visual indicator corresponding to the first coupling position.

47. (Twice Amended) ~~The apparatus of claim 27, further comprising~~
~~An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:~~

a support member configured to rest on a body of the recipient proximate to a coupling region, the support member having a first engagement portion configured to be positioned proximate to a first coupling position on the body of the recipient and a second engagement portion configured to be positioned proximate to a second coupling position on the body of the recipient;

a first engagement member configured to removably carry a first coupler at the first engagement portion of the support member;

a second engagement member configured to removably carry a second coupler at the second engagement portion of the support member, the first engagement member configured to be positioned closer than the second engagement member to the first coupling position; and

the first coupler, and wherein the first coupler includes an electrical connector positioned for making electrical contact with a percutaneous probe at the first coupling position.

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

48. (Amended) The apparatus of claim 27-28 wherein the support member includes a flexible, bio-compatible material.

49. (Amended) The apparatus of claim 27 An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:

a support member configured to rest on a body of the recipient proximate to a coupling region, the support member having a first engagement portion configured to be positioned proximate to a first coupling position on the body of the recipient and a second engagement portion configured to be positioned proximate to a second coupling position on the body of the recipient;

a first engagement member configured to removably carry a first coupler at the first engagement portion of the support member; and

a second engagement member configured to removably carry a second coupler at the second engagement portion of the support member, the first engagement member configured to be positioned closer than the second engagement member to the first coupling position;

wherein the support member includes a generally flat, rigid material.

50. (Twice Amended) The apparatus of claim 27-28 wherein the first coupler includes an electrically conductive clamp, and wherein the first engagement member is configured to carry the first coupler including an~~the~~ electrically conductive clamp.

51. (Twice Amended) The apparatus of claim 27-28 wherein the first coupler includes an electronically conductive alligator clip, and wherein the first engagement member is configured to carry the first coupler including an~~the~~ electrically conductive alligator clip.

52. (Twice Amended) The apparatus of claim 27-28 wherein the first coupler includes an actuator tool configured to insert the percutaneous electrode in the

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

recipient, and wherein the first engagement member is configured to carry the first coupler including an the actuator tool configured to insert a percutaneous electrode in the recipient.

83. (Twice Amended) An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:

support member configured to rest on a body of the recipient, the support member having a first coupler portion configured to be positioned proximate to a first coupling position of the body of the recipient, the support member further having a second coupler portion configured to be positioned proximate to a second coupling position of the body of the recipient, the first coupler portion configured to be positioned closer than the second coupler portion to the first coupling position on the body of the recipient;

a first coupler configured to be operatively coupled to the body when spaced apart from the first coupler portion and configured to be removably supported at the first coupler portion;

a second coupler configured to be operatively coupled to the body when spaced apart from the second coupler portion and configured to be removably supported at the second coupler portion;

a recipient care unit configured to deliver therapy, monitor a condition of the recipient, or delivery therapy and monitor a condition of the recipient; and

a first link between the care unit and the first coupler and a second link between the care unit and the second coupler.

87. (Twice Amended) The apparatus of claim 83 An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:

support member configured to rest on a body of the recipient, the support member having a first coupler portion configured to be positioned proximate to a first

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

coupling position of the body of the recipient, the support member further having a second coupler portion configured to be positioned proximate to a second coupling position of the body of the recipient, the first coupler portion configured to be positioned closer than the second coupler portion to the first coupling position on the body of the recipient;

a first coupler configured to be operatively coupled to the body and removably supported at the first coupler portion;

a second coupler configured to be operatively coupled to the body and removably supported at the second coupler portion;

a recipient care unit configured to deliver therapy, monitor a condition of the recipient, or delivery therapy and monitor a condition of the recipient; and

a first link between the care unit and the first coupler and a second link between the care unit and the second coupler;

wherein the first coupler is moveable relative to the support member between an attached position with the first coupler engaged with the support member at the first coupler location, a detached position with the first coupler disengaged from the first coupler location, and a coupled position with the first coupler operatively coupled to the recipient at the first coupling position, the first coupler having an electrical contact for connecting to a percutaneous electrical probe inserted into the patient, and further wherein the first link includes a flexible electrical cable.

88. (Amended) The apparatus of claim 83 An apparatus for supporting couplers for removable coupling to a recipient during at least one of therapy administration and recipient monitoring, the apparatus comprising:

support member configured to rest on a body of the recipient, the support member having a first coupler portion configured to be positioned proximate to a first coupling position of the body of the recipient, the support member further having a second coupler portion configured to be positioned proximate to a second coupling position of the body of the recipient, the first coupler portion configured to be positioned

RESPONSE UNDER 37 C.F.R. § 1.116

EXPEDITED PROCEDURE – Art Unit 3762

Attorney Docket No. 33734-8004US1

closer than the second coupler portion to the first coupling position on the body of the recipient;

a first coupler configured to be operatively coupled to the body and removably supported at the first coupler portion;

a second coupler configured to be operatively coupled to the body and removably supported at the second coupler portion;

a recipient care unit configured to deliver therapy, monitor a condition of the recipient, or delivery therapy and monitor a condition of the recipient; and

a first link between the care unit and the first coupler and a second link between the care unit and the second coupler;

wherein the support member has a central axis, a first elongated portion positioned along the central axis, a second elongated portion extending transversely to the central axis on first and second sides of the central axis, and a third elongated portion positioned between the first and second elongated portions and extending transversely to the central axis on the first and second sides of the central axis, further wherein the first and second coupler locations are positioned on one of the elongated portions, with the first coupler location including a post positioned on the first side of the central axis and the second coupler location including a post positioned on the second side of the central axis.